



Emerging Environmental Justice Policy and Planning Issues

Virginia Association of Metropolitan Planning Organizations
(VAMPO)

April 29, 2022

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Origins of Environmental Justice/Equity Movement

- Relatively recent activism and analysis from mid-1980s
- Commission for Racial Justice (1987) finds that race was the strongest variable in predicting the location of waste facilities
- [Environmental Justice Principles](#) (1991) describe a broad-based series of concepts defining the priorities and objectives of the environmental justice movement – strong nexus between environmental and economic policies

Federal Policy Articulated by Executive Order

- President Clinton signs [Executive Order 12898](#) in 1994 – “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations”
- Summary of main objective:

“Each federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.”

- U.S. Environmental Protection Agency Office of Environmental Justice created in 1992.

While Executive Order 12898 Focused on Impacts of Federal Actions, EJ Challenges Go Beyond Federal Role

- Real estate laws
- Local land use and zoning codes
- Transportation and land use planning efforts

Legal Tools to Enforce EJ Principles Have Been Limited

- Title VI of the Civil Rights Act
 - Prohibits organizations that receive federal funds from discriminating against protected groups
 - This could include state and local agencies that issue permits and/or carry out activities to implement federal pollution laws
- EPA enforcement actions in coordination with U.S. Department of Justice
- Extremely limited history of federal enforcement of EJ claims across the federal government

Case Study: City of Beavercreek, Ohio

"Free to Ride" Documentary;
Ohio State University
Kirwin Institute for the Study
of Race and Ethnicity

Biden Administration Equity Executive Orders

- [Executive Order 13985](#): Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- [Executive Order 14008](#): Tackling the Climate Crisis at Home and Abroad
 - Section 219 establishes the White House Environmental Justice Interagency Council and an Advisory Council with the aim of increasing “the Federal Government’s efforts to address current and historic environmental injustice, including recommendations for updating Executive Order 12898”

EPA EJ Policy Memoranda

- EPA memoranda stress role of enforcement actions “where a community’s health may be impacted by noncompliance and our co-regulator is not taking timely or appropriate action...”
[Memorandum dated April 30, 2021](#)
- Follow-up [Memorandum dated Jun 21, 2021](#) emphasized how criminal enforcement can further EJ
- Yet another [Memorandum dated July 1, 2021](#) emphasized the role of EJ in cleanup enforcement actions

Federal Actions Targeting State/Local Permitting and Regulatory Actions

- Chicago metal shredding facility
- Major highway project in Houston
- Missouri Environmental Agency air quality program
- EPA staffing (new senior EJ advisor) and organization/budget proposals

EJ/Title VI Challenges to Michigan Asphalt Plant Minor Source Air Permit

- Opposing Litigation Over “Permit to Install” Issued by Michigan EGLE to Ajax Materials Corp.
 - Interest group court challenge AND Title VI petitions filed before EPA and U.S. Department of Housing & Urban Development
 - Counter-suit filed by Ajax alleging EGLE lacked authority to require strict permit conditions based on EJ concerns
- Advocate group goals stated as not allowing the plant to be built in proposed location

White House Environmental Justice Advisory Council/“Justice 40” Initiative

- Between May and July 2021, Council issued sweeping recommendations and interim guidance on fundamental goal that 40 percent of the “overall benefits” of federal investments flow to disadvantaged communities
- Links to key documents:
<https://www.epa.gov/sites/default/files/2021-05/documents/whiteh2.pdf>
<https://www.whitehouse.gov/wp-content/uploads/2021/07/M-21-28.pdf>
- While policy objectives are clear, how key terms and goals will be defined are not: what is a “disadvantaged community,” what is a “covered program,” and how does each agency calculate “benefits” of a covered program?

Updates to EJ Mapping Tools

- White House Council on Environmental Quality “Climate and Economic Justice Screening Tool (CEJST)” – designed to identify disadvantage communities to advise “Justice 40” initiatives
- EPA Releases Update to EJSCREEN, Version 2.0 – described as a “tool to screen for potential disproportionate and environmental burdens and harms at the community level”
- Both serve as GIS-level data collection on demographics, income, and context of existing environment

Additional Analytical Tools/ Community Access to Data

- Health Impact Assessment
- [Recent Study](#) on Disproportionate Air Quality Impacts – clearly next generation of analyses from 1980s
- Establishing Nexus Between Proposed Action and Community Health
- EPA Enforcement and Compliance History Online (ECHO) – notifications of enforcement and compliance activities by zip code/counties

What's Next?

- Look for Title VI Findings/Settlements
- Look for EPA Guidance on Cumulative Impacts, key concept underlying EJ concerns
- Look for CEQ Guidance Expressly Incorporating EJ Into National Environmental Policy Act (NEPA) documents

Questions?



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